

ENTERED

February 07, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

BRAZOS ELECTRIC POWER
COOPERATIVE, INC.,Debtor.¹

Chapter 11

Case No. 21-30725 (DRJ)

BRAZOS ELECTRIC POWER
COOPERATIVE, INC. *et al.*,

Plaintiff/Plaintiff-Intervenors,

Adv. Proc. No. 21-03863 (DRJ)

v.

ELECTRIC RELIABILITY COUNCIL OF
TEXAS, INC., *et al.*,

Defendant/Defendant-Intervenors.

ORDER ON MOTIONS FOR SUMMARY JUDGMENT
[RELATES TO ADV. DKT. Nos. 280, 281 & 285]

Upon consideration of the (a) *Motion for Partial Summary Judgment* filed by the Electric Reliability Council of Texas, Inc. (“ERCOT”) [Adv. Dkt. No. 280], (b) *Official Committee of Unsecured Creditors’ Motion for Summary Judgment* filed by the Official Committee of Unsecured Creditors (the “Committee”) [Adv. Dkt. No. 281], and (c) *Motion for Partial Summary Judgment* filed by the above-captioned Debtor [Adv. Dkt. No. 285], and the various joinders in respect of each such motion by various parties, and all of the responses and replies filed in connection therewith, the evidence considered and all arguments of

¹ The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number is: Brazos Electric Power Cooperative, Inc. (4729). Additional information regarding this case may be obtained on the website of the Debtor’s claims and noticing agent at <http://cases.stretto.com/Brazos>. The Debtor’s address is 7616 Bagby Avenue, Waco, TX 76712.

counsel at the hearing on the motions (the “Hearing”); the Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the motions in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and after due deliberation and for the reasons stated on the record at the Hearing pursuant to Bankruptcy Rule 7052, it is

HEREBY ORDERED THAT:

1. Based on representations made on the record at the Hearing by counsel to ERCOT, the Debtor’s Count 3 as pled in the Amended Complaint is withdrawn.
2. ERCOT’s Motion for Partial Summary Judgment (#280) is **DENIED**.
3. The Debtor’s Motion for Partial Summary Judgment (#285) is **DENIED**.
4. The Committee’s Motion for Summary Judgment (#281) is **GRANTED** to the extent that ERCOT seeks priority treatment under 11 U.S.C. § 503(b)(9) for amounts incurred by the Debtor after the intervention of the PUCT and ERCOT in the Texas electricity market. The amount of such general unsecured claim is an issue to be proven by ERCOT at trial. Likewise, the amount and priority of any claim for amounts incurred prior to the intervention or after the intervention ceased are issues to be proven at trial by ERCOT.
5. All other requested relief is denied. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: February 07, 2022.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE